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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,587	03/21/2005	Hendricus Antonius Hoogland	294-193 PCT/US	2814
23869 7590 01/29/2007 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			EXAMINER BATTULA, PRADEEP CHOUDARY	
			ART UNIT 3722	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/501,587

Applicant(s)

HOOGLAND, HENDRICUS
ANTONIUS

Examiner

Pradeep C. Battula

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date August 5, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 3, Lines 12 – 13 applicant mentions a Claim 12. Claim 12 does not exist in the application. Furthermore, Applicant should not include references to claims in the specification.

Appropriate correction is required.

Drawings

The drawings are objected to because of Figure 3. Element 13 is disclosed in the specification as being an arch and element 18 is disclosed as being a coupling means. It is not clear in the drawings (Figure 3) where these features are located since the arrows merely point to different sides of the base plate. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

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margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1, 2, and 6 – 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "preferably" in claim 1 is a relative term which renders the claim indefinite. The term "preferably" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The phrases read "...preferably by injection molding from plastic..." (Claim 1) and "...preferably at least on the sides thereof facing inward during use." (Claim 6)

The term "largely" in claim 7 is a relative term which renders the claim indefinite. The term "preferably" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The phrase reads, "...the outsides of the covers (2, 3) are at least largely provided..."

Regarding claims 1, 8 and 9, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding Claims 8 and 9, the lines in question read, "...for cooperation with the first coupling means (12), in particular the clamping means (22)..." It is unclear to the examiner if applicant is trying to invoke 112, 6th paragraph with the phrase "coupling means for".

Regarding Claims 1, 2, and 8 the phrase "the or each arch" is stated several times. It is unclear to the examiner if the phrase is indicating multiple or singular items.

2. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: How the arches are in the cover. Applicant discloses and previously claims that the arches are inserted into the clamping means with the base piece 14 but does not give any indication or previous claim of them being in the cover.

Claim Objections

Claims 3 and 8 are objected to because of the following informalities:

In regards to Claim 3, putting the word "an" in front of the last word "insert" might be appropriate. Appropriate correction is required.

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In Claim 8 in the phrase "A set of cover", the word "cover" should be replaced with "covers".

The claims are replete with grammatical errors after translation and in view of the listed 35 USC 112 rejections and Claim objections the examiner suggest applicant review the Claims to correct the additional errors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 3 and 8 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (U.S. 4,484,830).

In regards to Claim 1, Anderson discloses file (10), provided with at least a front cover (14), a back cover (20), a spine (26) (Column 2, Lines 37 – 41; Figure 1, Items 10, 14, 20, 26) and at least one arch (52, 54, 56) for fastening paper and the like, coupling means (58) being provided for fastening the or each arch to one of the covers or the spine (Column 3, Lines 21 - 25; Figure 3, Items 58 , 60), said coupling means being co-injection molded in the file (Column 3, Lines 21 – 25), characterized in that the front cover, the back cover and the spine are manufactured in one piece, by injection molding from plastic (Column 2, Lines 33 – 36), hinges (28, 30) being co-formed for connecting the covers with the spine (Column 2, Lines 40 – 48), and in that the coupling means

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comprise clamping means (60), with which the or each arch can be fixed to one of the covers and/or the spine (Column 3, lines 21 – 25; Figure 3, Item 60).

With respect to the coupling means being co-injection molded in the file after it has been injection molded, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

In regards to Claim 2, as applied to Claim 1, Anderson further discloses wherein the coupling means (58) at least comprise guide means (60; also acts as a guide means since it projects, therefore 58 [holding arches] can be slid into file and be clamped) for sliding in each arch (52, 54, 56) (Column 1, Lines 21 – 28) with complementary second guide means (62) (Column 3, Lines 31 – 35; Figure 3, Item 62) clamping means (60) being provided to fix the respective arch in the guide means (60) when the respective arch has been slid in completely (Column 3, Lines 21 – 35).

In regards to Claim 3, as applied to Claim 1, Anderson further discloses wherein the arch (52, 54, 56) is co-injection molded in the file with the coupling means (Column 3, Lines 21 – 25) as an insert.

In regards to Claim 4, as applied to Claim 1, Anderson further discloses wherein at least a part of the spine (26) is provided on the outside with a surface that can be

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written on since the cover is made of a polypropylene material capable of receiving ink and is therefore capable of being provided by labeling.

In regards to Claim 8, Anderson discloses a set of a cover (10), comprising at least a front cover (20), a back cover (24) and a spine (26) (Column 2, Lines 37 – 41; Figure 1, Items 10, 14, 20, 26), interconnected by hinges (28, 30) (Column 2, Lines 40 – 48), wherein first coupling means (60) are provided in the cover (20) (Column 3, Lines 21 – 25), which first coupling means (60) comprise clamping means (60 has curves which are clamping means; Figure 6) (Column 3, Lines 23 – 25), and at least one arch (52, 54, 56) (Column 3, Lines 21 – 23), the or each arch being provided with second coupling means (62), for cooperation with the first coupling means (60), in the clamping means (60) thereof (Column 3, Lines 31 – 35).

In regards to Claim 9, Anderson discloses method for presenting files, wherein covers , each comprising a front cover (14), a back cover (20) and a spine (26), interconnected by hinges (28, 30) (Column 2, Lines 37 – 48; Figure 1, Items 10, 14, 20, 26), which covers are provided with first coupling means (60), comprising clamping means (curves in 60; Figure 6), arches (52, 54, 56) , which arches are provided with second coupling means (58) for cooperation with the first coupling means (60) (Column 3, Lines 21 – 25); the clamping means, the covers and arches being presented apart from each other where the cover and at least one arch can be combined directly before use of file 10.

In regards to Claim 10, as applied to Claim 9, Anderson further discloses the covers and hinges are injection molded (Column 2, Lines 33 – 44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Miller et al. (Miller; U.S. 6,773, 653 B2).

In regards to Claim 5, as applied to Claim 4, Anderson does not disclose wherein said surface is provided by in-mold labeling.

Miller discloses a method of in mold labeling a plastic article (Claim 1). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to label Anderson's file with Miller's method in order to provide a file with a label having tamper resistant features (Column 1, Lines 19 – 24; 38 – 41).

In regards to Claim 7, as applied to Claim 1, Anderson does not disclose wherein at least the outsides of the covers are at least largely provided with texture by in-mold labeling.

Miller discloses a method of in mold labeling a plastic article (Claim 1). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to label Anderson's file with Miller's method in order to provide a file with a label having tamper resistant features (Column 1, Lines 19 – 24; 38 – 41).

Furthermore, the covers can be extensively labeled and therefore provided with a texture by in-mold labeling.

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5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Condon et al. (Condon; U.S. 2,570,323).

In regards to Claim 6, as applied to Claim 1, Anderson does not disclose wherein the covers (14, 20) and/or the spine (26) are provided with stiffening ribs.

Condon discloses stiffening ribs 49 on the inside surface of a cover 43 (Column 4, Lines 20 – 23). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to put Condon's ribs on the inside of Anderson's covers (14, 20) in order to impart a high rigidity to the covers (Column 4, Line 24).

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-272-2142. The examiner can normally be reached on Monday - Thursday 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB
Patent Examiner
January 16, 2007


MONICA CARTER
SUPERVISORY PATENT EXAMINER